

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:15-cv-5-FDW**

CONNELL D. HAWKINS,)
Plaintiff,)
vs.)
ATHENA BROOKS,)
Defendant.)

THIS MATTER is before the Court on initial review of Plaintiff's Complaint pursuant to 28 U.S.C. § 1915, (Doc. No. 1), and on Plaintiff's application to proceed in forma pauperis, (Doc. No. 2).

Pro se Plaintiff Connell D. Hawkins, an inmate currently incarcerated at Tabor Correctional Institution, filed the instant Complaint on January 8, 2015, pursuant to 42 U.S.C. § 1983 against Defendant Athena Brooks, a North Carolina state district court judge. In the Complaint, Plaintiff alleges the following:

On 9-13-12 there was a domestic violence order of protection filed against me, which contained false data and allegations to the deputy CSC which was Alice Phillips. (File No. 12cvd502) On 12-10-12 I was supposed to appear in front of Judge Athena Brooks but due to my incarceration I never appear[ed] so she had went [sic] ahead and signed off on the order for one year. The dates given on the order I was nowhere near the plaintiff that was on the order because I was incarcerated in the custody of Transylvania County Jail. On the other two dates I was with a friend. Due to Judge Athena Brooks signing the complaint it violated the Universal Declaration of Human Rights under Article 40 and Article 19. Also she violated the First and Sixth Amendment to the United States Constitution.

(Doc. No. 1 at 4).

Because Plaintiff seeks to proceed in forma pauperis, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is “frivolous or malicious [or] fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989).

Plaintiff filed an identical action against Defendant on October 1, 2014, and this Court dismissed with prejudice Plaintiff’s action on October 31, 2014, for failure to state a claim. See (Order, Hawkins v. Brooks, 1:14cv258, Doc. No. 7). This action is, therefore, barred by res judicata and will be dismissed. See Ohio Valley Envtl. Coalition v. Aracoma Coal Co., 556 F.3d 177, 210 (4th Cir. 2009) (noting that an action will be barred by res judicata where there was a judgment on the merits in a prior suit resolving claims by the same parties or their privies, and the subsequent suit arises out of the same transaction or series of transactions as the claim resolved by the prior judgment).

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Application to Proceed in Forma Paupers, (Doc. No. 2), is **GRANTED** for the limited purpose of the Court’s initial review.
2. Plaintiff’s Complaint is **DISMISSED** with prejudice for the reasons stated herein.

The Clerk is directed to close the case.

IT IS SO ORDERED.

Signed: January 14, 2015



Frank D. Whitney
Chief United States District Judge

